

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

ANTONIO PIZANO CORNEJO,

Plaintiff,

v.

No. 11-cv-0857 LH/SMV

**LEE VAUGHAN, WARDEN,
LEO NATURAL, CHAPLAIN,
CORRECTIONS CORPORATION OF AMERICA, and
FEDERAL BUREAU OF PRISONS,**

Defendants.

ORDER DENYING MOTION TO VACATE TENTH CIRCUIT ORDER

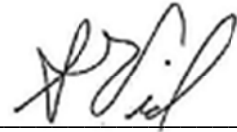
THIS MATTER is before the Court on Petitioner's Motion Requesting District Court to Vacate Active Order Requiring Petitioner to pay for Filing Fees of Appeal [Doc. 49], filed on January 28, 2013. Defendants have not filed a response, and none is needed. The Court will DENY the motion for lack of jurisdiction.

Petitioner's case was dismissed by the Honorable C. LeRoy Hansen, Senior United States District Judge, on October 3, 2012. [Docs. 37, 38]. Petitioner appealed on October 11, 2012. [Doc. 39]. On December 21, 2012, the Tenth Circuit Court of Appeals ordered Petitioner's custodian to make payments from Petitioner's inmate account toward the filing fee for Petitioner's appeal. [Doc. 45]. However, on January 16, 2013, the Court of Appeals granted Petitioner's motion to dismiss his own appeal. [Doc. 48-1]. Now, Petitioner asks this Court to vacate the Tenth Circuit's order directing his custodian to make the payments because he says that he withdrew his appeal and does not have the money to pay the fee. [Doc. 49] at 1-2. This

Court has no authority to vacate an order issued by the Tenth Circuit Court of Appeals. Such relief must be sought from the Tenth Circuit directly.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that Plaintiff's Motion Requesting District Court to Vacate Active Order Requiring Petitioner to pay for Filing Fees of Appeal [Doc. 49] is **DENIED** for lack of jurisdiction.

IT IS SO ORDERED.



STEPHAN M. VIDMAR
United States Magistrate Judge